

Court No. - 16

Case :- CRIMINAL MISC. BAIL CANCELLATION
APPLICATION No. - 126 of 2023

Applicant :- Kailash Nath Dubey

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Deptt.
Of Home Lko. And Another

Counsel for Applicant :- Ashish Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Ashish Kumar Singh, the learned counsel for the applicant and Ms. Ankita Tripathi, the learned A.G.A. appearing on behalf of the State and perused the records.
2. By means of this application the applicant has sought cancellation of order dated 07.07.2023, passed by this Court granting bail to the opposite party no.2.
3. The learned counsel for the applicant has submitted that the order has been passed by concealment of material fact. The facts concealed are said to be the involvement of the applicant in Case Crime No.207 of 2022, under Section 174-A I.P.C. which was lodged pursuant to non-appearance of the applicant in connection with the present case itself. The applicant's involvement in commission of any other offence has not been mentioned in the affidavit filed in support of the application for cancellation of order granting bail to the opposite party no.2.
4. The learned counsel for the applicant has submitted that the proceedings under Section 82 Cr.P.C. had been initiated against the opposite party no.2 and this fact was also not disclosed by her. Initiation of proceedings under Section 82 Cr.P.C would have some relevance for consideration of an application for anticipatory bail but it would not given a ground for cancellation of the order granting bail under Section 439 Cr.P.C.
5. A perusal of the order dated 07.07.2023 indicates that the court has taken into consideration the fact that the opposite party no.2 is a 53 years old women having no criminal history and some independent witnesses have stated that there is a property dispute between the parties and the incident occurred when an altercation took place between them while the informant was raising construction on the disputed land and persons from both sides indulged into beating each other.

6. The copies of several statements of independent witnesses are available on record of the application for cancellation of bail at pages 105 to 110, all of whom have stated that the opposite party no.2 was not present on the spot of occurrence.

7. In view of the aforesaid discussions, this court finds no reason for cancellation of order dated 07.07.2023. The application for cancellation of bail lacks merit and the same is accordingly **rejected**.

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(Subhash Vidyarthi, J.)

Order Date :- 17.11.2023

Ram.